

NEW APPLICATION

BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

ROBERT "BOB" BURNS - Chairman
BOYD DUNN
SANDRA D. KENNEDY
JUSTIN OLSON
LEA MÁRQUEZ PETERSON

In the matter of:)	DOCKET NO. S-21084A-19-0256
Marvin Robby Richards, an unmarried Arizona)	
resident,)	TEMPORARY ORDER TO CEASE AND
)	DESIST AND NOTICE OF
)	OPPORTUNITY FOR HEARING
Respondent.)	

NOTICE: THIS ORDER IS EFFECTIVE IMMEDIATELY
RESPONDENT HAS 10 DAYS TO REQUEST A HEARING
RESPONDENT HAS 30 DAYS TO FILE AN ANSWER

The Securities Division ("Division") of the Arizona Corporation Commission ("Commission") alleges that respondent Marvin Robby Richards is engaging in or is about to engage in acts and practices that constitute violations of A.R.S. § 44-1801, *et seq.*, the Arizona Securities Act ("Securities Act") and that the public welfare requires immediate action.

I.**JURISDICTION**

1. The Commission has jurisdiction over this matter pursuant to Article XV of the Arizona Constitution and the Securities Act.

II.**RESPONDENT**

2. Respondent Marvin Robby Richards ("Richards") has been a resident of the state of Arizona at all times relevant to this Notice.

1 10. Within minutes of sending her request, Respondent Richards emailed a response to
2 UIC in which he described himself as a “real estate developer/builder/contractor” and directed UIC
3 to his website www.richardsdevelopment.com to view his real estate projects.

4 11. Richards proposed that UIC meet him in person to discuss the investment opportunity,
5 and on August 13, 2019, UIC met with Richards at a coffee shop in Tempe, Arizona.

6 12. During that meeting, Richards explained some of his investment proposals and
7 recommended that UIC invest her money in his real estate projects. In addition to other proposals,
8 Richards represented that he could pay 20% returns on investment money in five to six months by
9 developing and flipping properties as quickly as possible, a strategy he called “turn and burn.”

10 13. Richards advised UIC that he could set up a limited liability company for the purpose
11 of flipping houses and would use UIC’s investment money to fund the purchase and restoration of
12 the properties.

13 14. Throughout their interactions, UIC made it clear to Richards that she had no
14 experience with real estate investment or development and would act as a passive investor.

15 15. After meeting with UIC, Richards formed RichCousins LLC, a manager-managed
16 Arizona limited liability company that he would purportedly use as a real estate investment vehicle.

17 16. In an August 19, 2019, email to UIC, Richards explained that UIC could wire her
18 investment money into a bank account in the name of RichCousins LLC, and Richards would then
19 add her as a member of the company. Richards said that he would aim to double UIC’s investment
20 in approximately four months.

21 17. On August 23, 2019, after UIC informed Richards that she wished to speak with her
22 accountant about the investment opportunity, Richards responded:

23 “I totally understand your desire to speak with an accountant. It never hurts to seek good
24 advice. Hopefully, they don’t derail our agreement.

25 It has been my experience in the past that many times lawyers and accountants discourage
26 my potential investors from doing something with me. Instead, they offered some investment
 options themselves or through their partners.”

1 18. During this time period, Richards continued to advertise real estate investment
2 opportunities. On or about August 20, 2019, Richards posted a Craigslist.com advertisement titled
3 "Put your Money to Work (Phoenix area projects)" that included the following:

4 Seeking equity investors / lender for joint ventures in real estate projects
5 Fully secured with recorded lien on real estate
6 Fix and flips and ground up spec home development and sale
7 Profit splits allows for 10-20% Return

8 The Phoenix Real Estate Market is RED HOT. If you are sitting on the sidelines,
9 you are losing out on huge money.
10 Very busy builder-developer has multiple projects
11 Working with first time investors and seasoned pros alike.

12 19. On September 19, 2019, in a second meeting between Richards and UIC, Richards
13 explained that RichCousins LLC would purchase real estate already owned by Richards or one of
14 his other companies. Richards would then use UIC's investment funds to develop and sell those
15 properties.

16 20. Richards would act as the managing member of RichCousins LLC and would select
17 the properties that the company would purchase and develop. He would take a 50% share of the
18 profits for his managerial services and disburse the remainder of the profits to UIC.

19 21. During their meeting, Richards explained that no other investors would be added as
20 members to RichCousins LLC. He would establish separate companies for each investor in order to
21 keep the funds separate.

22 22. Richards explained during his second meeting with UIC that the limited liability
23 company structure would give him the power to buy and sell property in the name of the entity
24 without directly involving UIC.

25 23. After the second meeting with UIC, Richards emailed an operating agreement that
26 described how he would operate RichCousins, LLC, and apportion the profits between himself and
UIC.

1 24. The operating agreement ostensibly provided the members some voting control over
2 the company, but Richards was still designated as the managing-member, and he would control the
3 company's bank accounts and the development of the properties.

4 25. Any voting rights provided to UIC would be illusory because her 50% stake in the
5 two-member entity would never be enough to exercise any control over the company. In contrast,
6 Richards could control the entity without a majority vote of the members.

7 26. After the second meeting with UIC, Richards emailed a list of undeveloped properties
8 in Buckeye, Wintersburg, and San Tan, Arizona, that would purportedly be developed by
9 RichCousins LLC using investor funds supplied by UIC.

10 ***Misrepresenting Previous Projects***

11 27. When UIC first requested information about the investment opportunity advertised
12 on Craigslist.com, Richards directed UIC to www.richardsdevelopment.com, a website used by
13 Richards Development LLC to promote its real estate development projects.

14 28. The website identifies Richards as the founder and manager of Richards Development
15 LLC and touts his prior success as a business owner and entrepreneur.

16 29. The homepage of the website contains a list of "current projects" comprised of three
17 properties in Buckeye, Arizona, and includes a single photograph and brief promotional description
18 of each of the three properties. Below each image is a link that directs the viewer to secondary pages
19 ("Description Pages") that provide larger versions of the photographs, longer descriptions of the
20 properties, dates, and links to click if the viewer would like to contact an agent or request a visit of
21 the properties.

22 30. The Description Pages describe each of the properties as 2,200 square feet comprised
23 of four bedrooms and three bathrooms for \$120,000.

24 31. The description of each property includes the following:

25 "The Presidio Residences offer a unique opportunity to live in a national park setting and
26 enjoy quiet neighborhoods, convenient location, beautiful open spaces, and outstanding
 recreational amenities that you won't find anywhere else in the area."

1 32. The “catalog” of properties on RichardsDevelopment.com falsely represents that
2 Respondent Richards developed the pictured properties in Buckeye, Arizona, as part of the “Presidio
3 Residences” and has offered those properties for sale since the date next to each photo.

4 33. The images of the properties on the website are promotional photos of manufactured
5 homes sold by a third party and do not depict actual properties that were previously developed and
6 offered for sale by Richards or his companies.

7 34. On information and belief, the property descriptions do not accurately describe
8 properties developed by Richards and are copied verbatim from promotional materials for the
9 “Presidio Residences,” an unaffiliated apartment complex in Southern California. There is no
10 neighborhood, planned community, or real estate development named “Presidio Residences” in
11 Buckeye, Arizona.

12 35. Richards did not disclose that the pictures and property descriptions on his website
13 are illustrative and do not depict or describe completed real estate developments.

14 ***False Claims of Safe or Risk-Free Investment***

15 36. Richards failed to adequately disclose the risks associated with the securities he
16 promoted and with real estate development projects in general, and Richards misrepresented
17 investment in his real estate projects as safe or essentially risk-free.

18 37. Throughout his interactions with UIC, Richards characterized the investment he
19 promoted as particularly safe by referring to real estate investment as “the Rock of Gibraltar” and
20 stating “if you buy it correctly, real estate investment is risk free.”

21 38. When emailing UIC, Richards referred to himself as a “real estate
22 developer/builder/contractor” and assured UIC “I am licensed, bonded and insured so your
23 investment would be safe with me.”

24 39. When meeting with UIC, Richards again promoted his contractor’s license as a reason
25 to trust him, stating “If I monkey around with something as a licensed general contractor, that’s a
26 felony. That’s not just people losing money. They will come after me and throw me in prison.”

1 40. Respondent Richards is not a licensed contractor. He is the manager and authorized
2 representative of R2 Construction LLC, a general contractor licensed through its affiliation with a
3 separate qualifying party.

4 41. R2 Construction LLC holds a \$34,000 surety bond, but the license and bond held by
5 R2 Construction LLC are the minimum legal qualifications for a general contractor, and they do not
6 make the investment "safe" or protect investors from incurring financial loss.

7 42. The license held by R2 Construction LLC does not criminalize otherwise legal
8 conduct, increase criminal penalties for unlawful conduct, or control the duties owed by Richards to
9 his investors. The surety bond held by R2 Construction LLC does not act as insurance against
10 investor loss and does not make the investments offered by Respondent Richards "safe."

11 ***Undisclosed Bankruptcies, Business Failures, Judgments, and Convictions***

12 43. When speaking to UIC, Richards detailed his history as an entrepreneur and portrayed
13 himself as a successful real estate developer who had experienced financial troubles in 2006 caused
14 by the United States housing bubble. Richards attributed the slow growth of his real estate
15 development business since 2006 to a general refusal by banks to lend money for development
16 projects.

17 44. Respondent Richards misrepresented that his financial troubles as a real estate
18 developer began in 2006 and failed to disclose his complete history of financial difficulties, failed
19 businesses, money judgments, and felony conduct that extended well beyond 2006.

20 45. Richards did not disclose that he had personally filed for bankruptcy in 1996, 1998,
21 2000, 2003, and 2004, that his real estate company RichRose LLC filed for bankruptcy in 2002 and
22 2004, or that Richards Development LLC had filed for bankruptcy in April of 2006.

23 46. According to documents filed by Richards with the Commission, RichDev1 LLC,
24 another real estate company formed by Richards, filed for bankruptcy in August 2008.

25 47. From 2007 to 2012, Richards was the owner and CEO of Arizona alternative energy
26 companies Copernicus Energy Group LLC and Copernicus Energy Inc.

1 48. In the October 2010 issue of *Envirotech & Clean Energy Investor Journal*,
2 Copernicus Energy Group LLC advertised an offering of preferred stock to raise at least \$1,000,000
3 in anticipation of a listing on the Canadian Stock Exchange. By the end of 2012, both Copernicus
4 Energy Inc. and Copernicus Energy Group LLC were inactive and administratively dissolved.

5 49. As recently as 2017, Richards used the website Richardsdevelopment.com to promote
6 a now abandoned condominium development project in Maricopa, Arizona, called "Containers in
7 Copa." The recent abandonment of a major development project is a material consideration for
8 potential investors in future real estate development projects.

9 50. When speaking to UIC, Richards portrayed his 2006 business troubles as a learning
10 experience that would help him serve investors, and he claimed that he alone had suffered financial
11 loss from his business ventures. Richards failed to disclose substantial money judgments held by the
12 creditors of his failed businesses.

13 51. Maricopa County Superior Court entered a \$50,000 judgment against Richards and
14 Richards Development LLC in July of 2006, a \$264,286.93 judgment against Copernicus Energy
15 Group LLC in June of 2012, and a \$94,119.04 judgment against Richards and Copernicus Energy
16 Group LLC in June of 2013.

17 52. On information and belief, Richards is liable for the full \$408,405.97 in money
18 judgments described above and still owes those debts and any applicable interest to his creditors.

19 53. When speaking to UIC, Richards mentioned his prior work in the solar installation
20 industry and claimed that a change in the rules by the state of Arizona had pushed about 60% of the
21 people in that industry out of business.

22 54. Richards did not disclose his felony conviction from 2013 related to his conduct as
23 an unlicensed contractor in the solar installation industry.

24 55. On August 27, 2012, Richards, DBA "Copernicus Energy Inc.," was criminally
25 charged in Maricopa County with forgery on a permit application, acting in the capacity of a
26 contractor without a license, and advertising to perform services that require a contractor's license.

1 56. Richards allegedly used a contractor's license number without authorization to obtain
2 a building permit from the City of Phoenix to oversee a \$150,000 solar power installation project.

3 57. In August of 2013, Richards pled guilty to solicitation to commit taking the identity
4 of another, a Class 6 undesignated felony, and he was sentenced to one year of probation and ordered
5 to pay criminal restitution.

6 58. On information and belief, Richards's felony conviction made it difficult or
7 impossible for him to continue work as a solar installer, to obtain a contractor's license, or obtain a
8 real estate license until his rights were restored in late 2018.

9 ***Misrepresented Assets and Undisclosed Delays***

10 59. To convince UIC that an investment in RichCousins LLC would quickly turn a profit,
11 Richards misrepresented the assets he owned and failed to disclose significant delays in ongoing
12 development projects.

13 60. During the second meeting with UIC, Richards represented that he would use the
14 money invested by UIC in RichCousins LLC to immediately install manufactured homes on plots of
15 land in Buckeye, Arizona.

16 61. Richards claimed that he could develop and sell the properties quickly because he
17 already had two manufactured homes that he could install on the properties.

18 62. Richards failed to disclose that neither he nor his companies actually owned the
19 manufactured homes that he referenced during the meeting with UIC.

20 63. Although Richards Development LLC had entered purchase agreements and paid
21 deposits for two manufactured homes in December of 2018, Richards Development LLC still owed
22 the seller another \$223,978 before Richards could take possession of the manufactured homes.

23 64. By the date of the second meeting with UIC, Richards and Richards Development
24 LLC had delayed the purchase payment for the manufactured homes more than six months longer
25 than agreed and had breached the terms of the purchase agreements. In response to the breach of
26 contract, the seller voided one of the purchase contracts and offered the home to other buyers.

V.

VIOLATION OF A.R.S. § 44-1842

(Transactions by Unregistered Dealers or Salesmen)

72. From on or about August 7, 2019, Respondent Richards has been offering or selling securities within or from Arizona while not registered as a dealer or a salesman pursuant to Article 9 of the Securities Act.

73. This conduct violates A.R.S. § 44-1842.

VI.

VIOLATION OF A.R.S. § 44-1991

(Fraud in Connection with the Offer or Sale of Securities)

74. In connection with the offer or sale of securities within or from Arizona, Respondent Richards is, directly or indirectly: (i) employing a device, scheme, or artifice to defraud; (ii) making untrue statements of material fact or omitting to state material facts that are necessary in order to make the statements made not misleading in light of the circumstances under which they are made; or (iii) engaging in transactions, practices, or courses of business that operate or would operate as a fraud or deceit upon offerees and investors. Richards's conduct includes, but is not limited to, the following:

a) Using RichardsDevelopment.com to promote development projects while misrepresenting that the houses pictured and described on the website are properties previously developed and offered for sale by Richards;

b) Representing to a potential investor that Richards's prior business failures were caused by the 2006 housing bubble without disclosing that he and/or an entity he owned had filed bankruptcy in 1996, 1998, 2000, 2002, 2003, 2004, and 2008; the failure of another business that he operated and in which he actively sought equity investors in 2012; the recent abandonment of a major real estate development project promoted by Richards Development LLC; and a felony conviction related to his conduct as a solar installer;

1 c) Representing that he alone had suffered financial loss due to his prior
2 business failures while failing to disclose \$408,405.97 in money judgments held by the creditors
3 of his failed business ventures;

4 d) Attributing the slow growth of his real estate development business since
5 2006 to a poor economy and claiming that a change in regulation caused him to leave the solar
6 installation industry while failing to disclose a 2013 felony conviction related to false information
7 submitted on solar installation building permits and unlicensed contracting services;

8 e) Misrepresenting to an investor that investment in Richards's real estate
9 development projects was essentially risk-free because of his real estate acumen and was uniquely
10 safe because of the license and bond held by R2 Development LLC;

11 f) Representing that Richards had two manufactured homes that could be used to
12 develop real estate for RichCousins LLC while failing to disclose that Richards did not own the
13 manufactured homes and could not take possession of the manufactured homes until he paid at least
14 another \$223,978.07; and

15 g) Representing that Richards could complete a proposed development project
16 within a month without disclosing that development had already been delayed for more than seven
17 months due to the difficulty in securing permits.

18 75. This conduct violates A.R.S. § 44-1991.

19 **VIII.**

20 **TEMPORARY ORDER**

21 **(Cease and Desist from Violating the Securities Act)**

22 THEREFORE, based on the above allegations, and because the Commission has determined
23 that the public welfare requires immediate action.

24 IT IS ORDERED, pursuant to A.R.S. § 44-1972(C) and A.A.C. R14-4-307, that Respondent
25 Marvin Robby Richards, his agents, servants, employees, successors, assigns, and those persons in
26

1 active concert or participation with Marvin Robby Richards CEASE AND DESIST from any
2 violations of the Securities Act.

3 IT IS FURTHER ORDERED that this Temporary Order to Cease and Desist shall remain in
4 effect for 180 days unless sooner vacated, modified, or made permanent by the Commission.

5 IT IS FURTHER ORDERED that if a request for hearing is made, this Temporary Order shall
6 remain effective from the date a hearing is requested until a decision is entered unless otherwise
7 ordered by the Commission.

8 IT IS FURTHER ORDERED that this Order shall be effective immediately.

9 **IX.**

10 **REQUESTED RELIEF**

11 The Division requests that the Commission grant the following relief:

- 12 1. Order Respondent Richards to permanently cease and desist from violating the
13 Securities Act, pursuant to A.R.S. § 44-2032;
- 14 2. Order Respondent Richards to take affirmative action to correct the conditions
15 resulting from his acts, practices, or transactions, including a requirement to make restitution pursuant
16 to A.R.S. § 44-2032;
- 17 3. Order Respondent Richards to pay the state of Arizona administrative penalties of up
18 to five thousand dollars (\$5,000) for each violation of the Securities Act, pursuant to A.R.S. § 44-2036;
19 and
- 20 4. Order any other relief that the Commission deems appropriate.

21 **X.**

22 **HEARING OPPORTUNITY**

23 Respondent may request a hearing pursuant to A.R.S. § 44-1972 and A.A.C. Rule 14-4-307.
24 **If a respondent requests a hearing, the requesting respondent must also answer this Temporary**
25 **Order and Notice.** A request for hearing must be in writing and received by the Commission within
26 10 days after service of this Temporary Order and Notice. The requesting respondent must deliver or

1 mail the request for hearing to Docket Control, Arizona Corporation Commission, 1200 West
2 Washington, Phoenix, Arizona 85007. Filing instructions may be obtained from Docket Control by
3 calling (602) 542-3477 or on the Commission's Internet web site at
4 www.azcc.gov/divisions/hearings/docket.asp.

5 If a request for hearing is timely made, the Commission shall schedule a hearing to begin 10
6 to 30 days from the receipt of the request unless otherwise provided by law, stipulated by the parties,
7 or ordered by the Commission. **Unless otherwise ordered by the Commission, this Temporary**
8 **Order shall remain effective from the date a hearing is requested until a decision is entered.**
9 After a hearing, the Commission may vacate, modify, or make permanent this Temporary Order, with
10 written findings of fact and conclusions of law. A permanent Order may include ordering restitution,
11 assessing administrative penalties, or other action.

12 If a request for hearing is not timely made, the Division will request that the Commission make
13 permanent this Temporary Order, with written findings of fact and conclusions of law, which may
14 include ordering restitution, assessing administrative penalties, or other relief.

15 Persons with a disability may request a reasonable accommodation such as a sign language
16 interpreter, as well as request this document in an alternative format, by contacting Kacie Cannon,
17 ADA Coordinator, voice phone number (602) 542-3931, e-mail kcannon@azcc.gov. Requests
18 should be made as early as possible to allow time to arrange the accommodation.

19 XI.

20 ANSWER REQUIREMENT

21 Pursuant to A.A.C. R14-4-305, if a respondent requests a hearing, the requesting respondent
22 must deliver or mail an Answer to this Temporary Order and Notice to Docket Control, Arizona
23 Corporation Commission, 1200 W. Washington, Phoenix, Arizona 85007, within 30 calendar days
24 after the date of service of this Temporary Order and Notice. Filing instructions may be obtained
25 from Docket Control by calling (602) 542-3477 or on the Commission's Internet web site at
26 www.azcc.gov/divisions/hearings/docket.asp.


1 Additionally, the answering respondent must serve the Answer upon the Division. Pursuant
2 to A.A.C. R14-4-303, service upon the Division may be made by mailing or by hand-delivering a
3 copy of the Answer to the Division at 1300 West Washington, 3rd Floor, Phoenix, Arizona, 85007,
4 addressed to Enforcement Attorney Mitchell Allee.

5 The Answer shall contain an admission or denial of each allegation in this Temporary Order
6 and Notice and the original signature of the answering respondent or the respondent's attorney. A
7 statement of a lack of sufficient knowledge or information shall be considered a denial of an
8 allegation. An allegation not denied shall be considered admitted.

9 When the answering respondent intends in good faith to deny only a part or a qualification
10 of an allegation, the respondent shall specify that part or qualification of the allegation and shall
11 admit the remainder. Respondent waives any affirmative defense not raised in the Answer.

12 The officer presiding over the hearing may grant relief from the requirement to file an
13 Answer for good cause shown.

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15 BY ORDER OF THE ARIZONA CORPORATION COMMISSION, this 21st day of
16 October, 2019.

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18 Mark Dinell
19 Director of Securities
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